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SIPDIS

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L/EAP  
BANGKOK FOR DHS/DD  
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SUBJECT: ADOPTIONS IN VIETNAM: PREVENTING ABUSES

Ref: A) Hanoi 891 B) Hanoi 0048 C) 03 Hanoi 3203 D) 03  
Hanoi 1759 E) 03 State 49491 F) 03 Hanoi 0218 G) 03 Hanoi  
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01 HCM 593 L) 01 HCM 580 M) 00 HCM 1363

This is a joint ConGen HCMC-Embassy Hanoi cable.

11. (U) Summary: As we wait for the GVN to make written revisions to the draft text left with them at the conclusion of the first round of adoption negotiations in March, we wish to take this opportunity to once again raise our concerns about the implementation of any agreement we eventually reach, and consider how we can improve adoption processing in Vietnam once adoptions resume. Given the implementation regulations associated with the Hague Convention on Intercountry Adoptions, Mission recommends that the USG press the GVN, alone or in concert with other countries with the same concerns, to accede to the Hague as soon as possible in lieu of negotiating bilateral agreements with every country individually. Otherwise we are concerned that we will return to a system with widespread fraud and abusive practices. See Action Item para 11.

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PAST EXPERIENCE  
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12. (U) Prior to the passage and enactment of Decree No. 68/2002/ND-CP, which halted intercountry adoptions within Vietnam until a bilateral agreement was reached with individual countries with prospective adoptive parents, U.S. parents accounted for over 750 orphan visa cases annually. While most of those cases seemed legitimate on the surface, discrepancies and irregularities appeared in many cases -- unanswered questions about the origins of the children and the circumstances of their relinquishments; the lack of a strong central authority governing the adoption process and matching children with families; and lack of documentation or even explanations regarding what fees were paid and to whom -- clouded each decision. Add to the mix the high-fraud environment in Vietnam, where documents can easily be bought and manufactured and official corruption is endemic, and consular officers issuing orphan visas are almost never 100 percent sure about the bona fides of these cases.

13. (U) This is not merely speculation or suspicion. Reftels K, L, and M list several cases of documented illegalities in the process. Certain adoption facilitators are believed to have made millions of dollars in the adoption business by promising one child to adoptive parents with no intention of delivering that child (or, indeed, in one case, the child had already been adopted by another family), paying off government officials to doctor paperwork, and providing a combination of monetary incentives, false promises and scare tactics to pressure Vietnamese mothers to relinquish their children. This coercion to give up children who are not truly in need of a home and family is real and duplicitous. While \$600 may seem like a small amount of money in U.S. terms, the average per capita income in Vietnam is roughly \$480, and in poorer provinces where some children have been presented for adoption it is only about \$200. The money offered to the birth parent or parents is not an amount for reasonable medical expenses, but actually remuneration for buying the baby. It is the rough equivalent of offering the average American \$47,000 for a child over and above medical expenses, which are negligible in rural Vietnam.

14. (U) Adoption facilitators will often offer the money, with pictures of other children in well-furnished homes, and a promise that the relinquishing parents will be able to see their children again in the future. Familial ties in Vietnam are quite strong and families in dire economic straits will often let their children be raised temporarily by other more economically prosperous members of the family, or place them in "nutrition centers" where they can visit the children regularly until they are back on their feet. The "relinquishment" in these cases is never promoted as a permanent separation, but rather predicated on the accepted belief that it is temporary. We can never be sure in these

circumstances whether parents are giving informed consent when signing a "relinquishment" document. (Note: we have seen several cases recently in HCMC's American Citizen Services Unit where parents of high school aged children who went to the U.S. on cultural exchanges have come in to sign and notarize U.S. court documents relinquishing parental authority over their children so they can be "adopted" by the host family in the U.S. and continue their education there free of charge. When consular officers explain to the Vietnamese parents that this breaks the parent-child bond and they will no longer have any legal tie or claim to the child, they universally withdraw the notarial request.)

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CURRENT EXPERIENCE OF THOSE WHO HAVE SIGNED  
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15. (U) It is also our contention that the vast amounts of money that can be earned in the adoption process are actually "creating" orphans for intercountry adoption here in Vietnam. Once the new decree went into effect, only France had an existing bilateral Agreement in effect with Vietnam and could thus resume intercountry adoptions right away. The French Agreement is unique in that it specifies set amounts of money that can be paid at each step - not a small amount, but certainly less than U.S. adoptive parents said they were paying on average. French Embassy officials report that there are nearly 1500 pending dossiers from French couples wanting to adopt for whom no children can be found. The supply simply isn't there. The informal word is that children are being "held" until the Americans come back into the game, since they will pay more money. The fact that our participation in intercountry adoptions in this country is "creating" orphans is disturbing and confirms our worst fears about the source of many children who were identified as orphans in past cases.

16. (U) In addition, five other countries have also entered into bilateral agreements with the GVN (Belgium, Italy, Ireland, Sweden and Denmark) but none of them has resumed adoption processing due to difficulties with implementation of their agreements. At first it appeared a new central authority, the Department on International Adoptions in the Ministry of Justice, would make the matches between the children and adoptive parents and have authority to license adoption providers and facilitators in country. That process has now devolved back to the provincial level, with the new Department adding a new level of bureaucracy to the process but with seemingly no regulatory or enforcement mechanism to make changes binding on the provinces. Under this scenario, which is still unfolding, it is increasingly apparent that we will return to status quo prior to the decree's implementation date in terms of processing adoption cases. At the provincial level there is essentially no effective mechanism to prevent the kind of corrupt practices we have outlined.

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STUDY THE CHINESE MODEL  
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17. (U) During the negotiations, we raised the issue of implementation and gave to the GVN side a non-paper outlining our concerns. Unfortunately, the negotiations became bogged down in title and form, and discussion of implementation was pushed to the back burner pending agreement on an actual document to discuss. We do find it encouraging, however, that Mr. Vu Duc Long, Acting Director of the Department of International Adoptions and the lead negotiator for the GVN, is organizing a trip to China to study their adoption system, a model which we agree should be emulated here in Vietnam.

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THE HAGUE AS A WAY FORWARD  
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18. (U) Pending final approval of a bilateral document between the U.S. and Vietnam, we strongly believe now is the time to discuss how we can improve implementation of that agreement. Certain changes to the current adoptions process in Vietnam will offer a way to reduce the abuses of the past, and the USG should press the GVN, alone or in concert with other countries with the same concerns, to accede to the Hague Convention on Intercountry Adoptions as soon as possible, in lieu of negotiating bilateral agreements with every country individually. It should be apparent to them at this point that their plans to implement each agreement with completely new and different provisions for every country are untenable. We believe we can garner support from other foreign missions in Vietnam to approach the GVN with a joint demarche on this subject.

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OTHER ACTIONS IN LIEU OF HAGUE  
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19. (U) If that approach is unsuccessful, we should strongly urge the GVN to take the following actions immediately:

- Give the Office of International Adoptions the sole responsibility for matching children with prospective adoptive parents and responsibility for licensing and regulating of all adoption service providers operating within country.
- Publish transparent, consistently applied processing regulations, directed by the Central Authority, which do not vary from region to region. Clear processing instructions should be provided to all adoptive parents of all countries, who will know exactly what they need to do at every step; how much the various fees are for the adoption processing; which office is responsible for what authorizations; requirements for post-adoption monitoring, etc.
- Provide a specific point of contact for the Central Authority for the U.S. government to call when concerns or problems arise under the agreement. That point of contact should provide a timely, written response to those concerns.
- The Central Authority should provide information on the circumstances under which the Central Authority is prepared to revoke an individual adoption and to provide in writing notice that the irregularity is in violation of Vietnamese adoption law.
- The Central Authority should develop regulations governing licensing or accreditation of adoption agencies operating in Vietnam, a mechanism for revoking the license or accreditation of agencies that engage in illegal practices, and a list of agencies currently authorized to process adoptions in Vietnam. Such regulations should apply throughout the country and should apply equally to all adoption agencies, regardless of country of origin.
- The Authority should set and provide a list of fees that cover every step in the adoption process in Vietnam and to provide transparent, consistent fees that all adoptive parents must provide and for which they receive a receipt. Fees should not vary from province to province.
- The Central Authority should provide a list of institutions that will be permitted to place children for international adoption.
- There should be a regular forum for information exchange about bilateral adoption processing issues and both sides should commit to participation.

110. (U) These changes are incumbent upon the Government of Vietnam to set up for themselves. But as the second largest foreign country recipient of Vietnamese adopted children, it should be our obligation to push the GVN to adopt these measures to ensure the integrity of the process and protect the interests of children who are vulnerable to potential exploitation for profit. This would also be in the best interests of the birth and adopting parents. The process of obtaining some form of bilateral agreement on adoptions in Vietnam is close to entering its third year. At this point, failure to put into place mechanisms that will provide any improvement on the worst abuses of the past could call into question our claims over the past two years to be working towards an agreement that will protect the interests of all the parties.

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ACTION REQUEST  
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111. (U) Action Request: Embassy seeks Department authorization to approach other embassies in Vietnam who share our concerns on adoptions processing to prepare a joint demarche to the Vietnamese Government, urging them to sign the Hague Agreement, with the understanding that some assistance may be available to help them accede fully to that Agreement. Mission also seeks authorization to open a more formal discussion with the Ministry of Justice regarding implementation issues before we come to a final agreement on the text of a bilateral protocol.  
BURGHARDT